

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION

Malikie Innovations Ltd. and
Key Patent Innovations Ltd.,

Plaintiffs,

v.

MARA Holdings, Inc. (f/k/a Marathon Digital Holdings, Inc.)

Defendant.

Case No. 7:25-cv-00222

DEFENDANT'S UNOPPOSED MOTION TO FILE A SUR-SURREPLY IN SUPPORT OF MOTION TO STAY PENDING EX PARTE REEXAMINATION

On January 20, MARA filed its Opposed Motion to Stay Pending Ex Parte Reexamination. Dkt. 54. Plaintiffs filed their response in opposition on February 3. Dkt. 61. MARA filed its reply on February 10. Dkt. 62. Plaintiffs filed an unopposed motion to file a sur-reply on February 17. MARA now submits this unopposed motion to file a sur-surreply to address new arguments made in Plaintiffs' sur-reply regarding the USPTO's recent reexamination orders for the '062 and '960 Patents.

Plaintiffs argue that a stay would result in a tactical disadvantage to Plaintiffs because they are not entitled to depose MARA's expert declarant regarding the prior art status of references used in requests for EPR of the '062 and '960 Patents, which are referenced in the reexamination orders. D.I. 70-2 at 1. But standard EPR procedures provide Plaintiffs with the means to address these issues without discovery in the district court, and no authority supports Plaintiffs' novel claims of "entitle[ment] to discovery not provided for by the PTO's rules." D.I. 70-2 at 2.

Accordingly, MARA requests leave to file the attached sur-surreply briefly addressing Plaintiffs' new arguments. *Lumintec, LLC v. Motorola Mobility LLC*, 21-CV-00402-ADA, ECF# 49 at 2 (W.D. Tex. May 10, 2022) (Albright, J.) (citations omitted) ("[A] Motion for Leave to File a Surreply may be granted if the party requesting leave demonstrates exceptional or extraordinary circumstances... [which] can include new issues, theories, or arguments addressed in the reply that require a response.").

Dated: February 20, 2026

Respectfully Submitted,

/s/ Anish Desai

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CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of this motion upon each attorney of record and the original upon the Clerk of Court on this the 20th day of February, 2026.

/s/ *Anish Desai*

Anish R. Desai